

**Texas Department of Insurance, Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**PART I: GENERAL INFORMATION**

Requestor's Name and Address: HIGHPOINT PAIN CLINIC 800 W. ARBROOK BLVD. , STE. 300 ARLINGTON, TX 76015	MFDR Tracking #:	M4-10-1051-01
Respondent Name and Box #: TEXAS MUTUAL INSURANCE CO. REP. BOX #: 54		

PART II: REQUESTOR'S POSITION SUMMARY AND PRINCIPLE DOCUMENTATION

Requestor's Position Summary: "...Enclosed, please find the data concerning the patient, [injured worker], as well as the two denials received for the Epidurography portion of the Epidural Steroid Injection. On July 28, 2009, authorization was received for the patient to have his first cervical epidural steroid injection. The authorization number is 6296777. The patient has his injection on August 3, 2009. On August 31, 2009, payment was received for the service. The Epidurography portion of the procedure was denied for payment as, "Payment adjusted because the payer deems the information submitted does not support this level of service". On September 14, 2009, I submitted my first appeal to Texas Mutual asking for reconsideration of payment. On October 1, 2009, I received my second denial from Texas Mutual on the Epidurography portion of the Epidural Steroid Injection. The denial reason being "The value of this procedure is included in the value of another procedure performed on this date." Bearing these factors in mind, I ask that this issue be referred for Medical Dispute Resolution under the Texas Department of Insurance, Division of Workers' Compensation..."

Principle Documentation:

1. DWC 60 package
2. Total Amount Sought - \$137.00
3. CMS 1500s
4. EOBs

PART III: RESPONDENT'S POSITION SUMMARY AND PRINCIPLE DOCUMENTATION

Respondent's Position Summary: "...The following is the carrier's statement with respect to this dispute. 1. The requestor performed a cervical epidural steroid injection (ESI) 8/3/09. 2. The requestor used C-arm fluoroscopy to guide the needle to inject the medication and dye. 3. Once this was done the requestor, again using the C-arm, took a radiography of the dye spread. That is not a separate, distinct procedure from the ESI. For this reason Texas Mutual argues that the requestor has not met the requirement for separate payment via the -59 modifier with CPT Code 72275."

Principle Documentation:

1. Response to DWC 60

PART IV: SUMMARY OF FINDINGS

Eligible Dates of Service (DOS)	CPT Codes and Calculations	Part V Reference	Amount Ordered
08/03/09	CPT Code 72275	1 – 3	\$0.00
Total:			\$0.00

PART V: REVIEW OF SUMMARY, METHODOLOGY AND EXPLANATION

Texas Labor Code Section 413.011(a-d), titled *Reimbursement Policies and Guidelines*, and 28 Texas Administrative Code (TAC) Section 134.203, titled *Medical Fee Guideline* effective for professional medical services on or after March 1, 2008, set out the reimbursement guidelines.

1. These services were denied by the Respondent with reason codes:
 - CAC-45 – Charge exceeds fee schedule/maximum allowable or contract/legislated fee arrangement.
 - CAC-97, 217 – The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated. The value of this procedure is included in the value of another procedure performed on this date.
 - 793 – Reduction due to PPO contract. PPO contract was applied by Focus/First Health.
2. The CPT Manual defines modifier -59 as follows: “Distinct Procedure Service: Under certain circumstances, the physician may need to indicate that a procedure or service was distinct or independent from other services performed on the same day. Modifier 59 is used to identify procedures/services that are not normally reported together, but are appropriate under the circumstances. This may represent a different session or patient encounter, different procedure or surgery, different site or organ system, separate incision/excision, separate lesion, or separate injury (or area of injury in extensive injuries) not ordinarily encountered or performed on the same day by the same physician. However, when another already established modifier is appropriate, it should be used rather than modifier 59. Only if no more descriptive modifier is available, and the use of modifier 59 best explains the circumstances, should modifier 59 be used.” Modifier -59 is an important NCCI-associated modifier that is often used incorrectly. For the NCCI its primary purpose is to indicate that two or more procedures are performed at different anatomic sites or different patient encounters. Modifier -59 and other NCCI associated modifiers should not be used to bypass an NCCI edit unless the proper criteria for use of the modifier is met. Documentation in the medical record must satisfy the criteria required by any NCCI associated modifier used.
3. According to 28 TAC, Section 134.203(b)(1) the Requestor has not met the requirements of modifier -59; therefore, reimbursement is not recommended.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES

Texas Labor Code Sections 413.011(a-d), 413.031 and 413.0311
 28 Texas Administrative Code Sections 134.1 and 134.203
 Texas Government Code, Chapter 2001, Subchapter G

PART VII: DIVISION DECISION

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Section 413.031, the Division has determined that the Requestor is not entitled to reimbursement for the services involved in this dispute.

DECISION:

 Authorized Signature

 Auditor III,
 Medical Fee Dispute Resolution

December 2, 2009

 Date

PART VIII: YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division Rule 148.3(c).

Under Texas Labor Code Section 413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 Rules if the total amount sought does not exceed \$2,000. If the total amount sought exceeds \$2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code Section 413.031.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.